

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 20TH MARCH 2007 / 29TH PHALGUNA 1928

OP.No. 20425 of 1998(F)

PETITIONER:

P.J. SEBASTIAN, MANAGER, M/S. PARAKKA INDUSTRIES, CHENGAL,
KALADY.

BY ADV. SRLM.V.JOSEPH

RESPONDENTS:

1. A.P. ELEMMA, W/O. THOMAS, KOONATHAN HOUSE,
CHENGAL, KALADY.
2. THE CONTROLLING AUTHORITY UNDER THE PAYMENT OF
GRATUITY ACT, ERNAKULAM (THE DISTRICT LABOUR OFFICER,
ERNAKULAM) CIVIL STATION, KAKKANAD, COCHIN – 30.

BY

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 20/03/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

O.P.NO.20425 OF 1998

ORDERS ON C.M.P.NO. 35995/98 AND C.M.P.NO. 27432/98 IN O.P.NO. 20425/98
DISMISSED

20.03.2007.

SD/- S. SIRI JAGAN, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS

- EXT.P1: TRUE COPY OF THE ORDER DATED 4.5.98 OF THE 2ND RESPONDENT.
EXT.P2: TRUE COPY OF THE AFFIDAVIT DATED 27.8.98 FILED BY THE PETITIONER.
EXT.P3: TRUE COPY OF THE COMMUNICATION OF THE 2ND RESPONDENT.

/TRUE COPY/

PA TO JUDGE.

S. SIRI JAGAN, J.

O.P.NO. 20425 OF 1998

DATED THIS THE 20th DAY OF MARCH, 2007

JUDGMENT

In this original petition, the opposite party in G.C.No.28/97 before the Controlling Authority under the payment of Gratuity Act – the District Labour Officer, Ernakulam, challenges Ext.P1 order passed by the authority directing the petitioner to pay gratuity amounting to Rs.16,628.25/- as found to be due to the 1st respondent herein. This original petition was admitted on 22.10.98. Since notice could not be served, this Court again on 18.01.02 directed the petitioner to take out urgent notice to the respondents returnable within two weeks. Although the petitioner paid process, sufficient copies of the original petition were not produced and therefore notices were not sent. As such, the original petition is now defective and the same is liable to be dismissed on that ground alone.

2. The learned counsel for the petitioner points out that in another connected case namely, O.P.No.18233/98, a learned Single Judge of this Court permitted the petitioner to file an appeal within one month from the date of the judgment and therefore similar relief may be granted to the petitioner in this case also. That judgment was

passed as early as on 26.6.06. In that case notice has been served on the respondents. In this case, the petitioner has not taken steps to cure the defect even after seven years.

3. I do not think that it would be in the interest of justice to drag a poor workman to the authorities under the Payment of Gratuity Act again for this purpose. Therefore, I do not think that I should extend the same relief, which the learned Judge granted in O.P.No.18233/98.

Accordingly the original petition is dismissed.

S. SIRI JAGAN, JUDGE

Acd

